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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/808,207

03/23/2004

Jeffrey H. Burbank

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3939

21890

7590

10/18/2006

PROSKAUER ROSE LLP  
PATENT DEPARTMENT  
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EXAMINER

BIANCO, PATRICIA

ART UNIT

PAPER NUMBER

3772

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/808,207	Applicant(s) BURBANK ET AL.	
	Examiner Patricia M. Bianco	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Species A in the reply filed on 8/7/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-10 read on the elected species and have been examined on the merits.

Claims 11-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/7/06.

### *Claim Objections*

Claims 2 and 8 are objected to because of the following informalities: there appears to be a typographical error in the claims. Each claim recites that the filter is "supporting by said support", but it appears that supporting should read **supported** in the claim. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: there appears to be a typographical error in the claim. The claim recites that the support member "hodsI" the circuit, but it appears that hodsI should read **holds** in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "said support panel-shaped portions" in line 9 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 recites "aligned with said effective to at least some of" in line 2 of the claim. This limitation is unclear and does not make sense in the context of the claim. Correction is required.

Claim 4 recites the limitation "said at least some of said tubular and flexible panel-shaped portions" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Chevallet et al. (5,441,636). Chevallet et al. (hereafter Chevallet) discloses an integrated blood treatment fluid module defining an extracorporeal fluid circuit. The fluid circuit is a module that has multiple portions (circuits 250/260/270/280) mounted within different sections of a cartridge (frame 220). This cartridge serves as a tray or support. The replacement fluid circuit is attached to a scale. All of the fluid circuit portions are connected to a filter member (240) for treating blood. The fluid circuit portions are in an overlaying relationship with the processing module (210). The circuit includes operative interfaces between the circuit portions and the module. The circuits are also in communication with pump mechanisms. At least pressure monitoring means is part of the module. See entire disclosure.

Claims 1, 3, and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bilstad et al. (4,479,760). Bilstad et al. (hereafter Bilstad) teaches of a fluid processing module comprising cartridge or tray that includes tubing, pump stations, valve stations and monitoring functions. Bilstad further shows cutouts or recesses formed in the tray. See figures 6, 8, & 13. The cassette body has a flexible housing and overlying flexible panels. The apparatus has valve stations that apply pressure forced to the flexible panels to cause compression on the tubing to block flow. The apparatus also has a fluid sensing mechanism. Bilstad further teaches of a filter as part of a the circuit.

***Conclusion***

Any inquiry concerning this communication should be directed to Patricia M. Bianco at telephone number (571) 272-4940.

October 16<sup>th</sup>, 2006

  
Patricia M Bianco  
SPE  
Art Unit 3772